



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
ECOSYSTEMS, TRIBAL AND
PUBLIC AFFAIRS

May 27, 2016

Paul Enriquez
U.S. Customs and Border Protection
Border Patrol Facilities
Bog Creek Road EIS
P.O. Box 643
Flagstaff, AZ 86002-0643

Dear Mr. Enriquez:

The U.S. Environmental Protection Agency has reviewed the Notice of Intent regarding the repair and maintenance of Bog Creek Road and closure of roads within the Blue-Grass Bear Management Unit in the Selkirk Mountains in Boundary County, Idaho. Our review of the NOI was conducted in accordance with our responsibilities under National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act.

The NOI describes the U.S. Customs and Border Protection (CBP) and the U.S. Forest Service Idaho Panhandle National Forest's intent to prepare a joint Environmental Impact Statement to assess potential impacts related to:

- Repairing and maintaining approximately 5.6-miles of the existing Bog Creek Road adjacent to the Canadian border and located on IPNF managed land within the Blue-Grass Bear Management Unit (BMU);
- closing additional roads to motorized use within the Blue-Grass BMU to comply with the IPNF *Forest Plan Amendments for Motorized Access Management within the Selkirk and Cabinet-Yaak Grizzly Bear Recovery Zones*; and
- reduce road density in the Blue-Grass BMU.

According to the NOI, the primary road that provides east-west access to the Northern Border in the Selkirk Mountains of Northern Idaho is Bog Creek Road. The area is managed by the IPNF and currently, the road is impassable to most vehicles. Without access to the Northern Border area via Bog Creek Road, CBP must use a lengthy detour to get to the border, including using state highways in Washington and Idaho and other forest roads. There is a need to provide more efficient access for CBP as well as the IPNF's objective to manage and secure grizzly bear habitat within the Selkirk Mountains. Therefore, the EIS balances the need to satisfy both agencies' authorities and management.

The EPA agrees with the following preliminary list of issues identified in the NOI:

- Border security;
- threatened and endangered species including grizzly bear, caribou, lynx, and bull trout;
- Blue-Grass BMU grizzly bear core habitat requirement;
- National Forest access; and
- biological resources including fisheries, wildlife, sensitive plants, and noxious weeds.

In addition, we are providing the following scoping comments to inform the agencies of issues that the EPA believes should be considered as the EIS is being developed. We appreciate the opportunity to participate early in the process. If you would like to discuss these comments, please contact me at (208) 378-5757.

Sincerely,

A handwritten signature in cursive script that reads "Lynne Hood".

Lynne Hood

Environmental Review and Sediment Management Unit

Enclosure

EPA Scoping Comments on the Bog Creek Road Project

Purpose and Need

The EIS should include a clear and concise statement of the underlying purpose and need for the proposed project, consistent with the implementing regulations for NEPA. We recommend that this statement be framed broadly to ensure a robust analysis of alternatives.

Range of Alternatives

The EIS should include a range of reasonable alternatives which meet the stated purpose and need for the proposed action and are responsive to the issues identified during the scoping process. Environmental impacts associated with each alternative should also be presented in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decision-maker and the public. These impacts should be quantified to the greatest extent possible. The EPA encourages selection of feasible alternatives which minimize environmental degradation.

Environmental effects

The EIS should include environmental effects and mitigation measures. This would involve delineation and description of the affected environment, indication of resources that would be impacted, the nature of the impacts, and a listing of mitigation measures for the impacts. The following topics will be of particular interest to us.

Water resources

Water quality degradation is one of EPA's primary concerns. Section 303(d) of the Clean Water Act requires States to identify water bodies that do not meet water quality standards and to develop water quality restoration plans to meet established water quality criteria and associated beneficial uses. Thus, the draft EIS should disclose which waters might be impacted, the nature of potential impacts, and specific pollutants likely to impact those waters. It should also report those water bodies potentially affected by the proposed action which are listed on EPA-approved 303(d) lists. Also, anti-degradation provisions of the Clean Water Act apply to those waterbodies where water quality standards are currently being met and prohibit degrading the water quality. The draft EIS should indicate how those provisions would be met by the proposed action.

Under the Clean Water Act, any project construction that would disturb a land area of one or more acres collectively also requires a National Pollutant Discharge Elimination System permit for discharges to waters of the United States. The EIS, therefore, should document the project's consistency with applicable storm water permitting requirements and should discuss specific mitigation measures which may be necessary or beneficial in reducing adverse impacts to water quality.

Roads

The project would involve road construction, which can result in sediment delivery to streams and habitat fragmentation. As the EIS is developed, agencies should evaluate the impacts that roads would have on waterbodies in the planning area and analyze the effects on wildlife habitat.

We support the closure of roads to support meeting standards for motorized access in grizzly bear habitat. Vegetation removal related to the Bog Creek road may create obstacles to animals migrating

through the area may deter terrestrial animals from crossing due to lack of cover, reduced forage and browsing opportunities, changes in wildlife migration patterns, and occasional human activity in these areas. Therefore, we recommend that the EIS discuss:

- Effects on habitat fragmentation and the creation of edge effects favoring some species, including mitigation measures.
- Extent of vegetation removal, whether the removal would occur on steep slopes, in or near riparian areas, and where soil damage was particularly severe due to previous activities.
- How vegetation removal would support retention of vegetation structures that are important for wildlife migration, recruitment and dispersal, rearing and feeding.
- Clearly identify and describe the mitigation measures to minimize effects to grizzly bear and other wildlife impacts.

Wetland, floodplain, and riparian resources

Based on information in the NOI, it is unclear whether wetlands are present on or adjacent to the project area. The EIS should describe all waters of the United States, including wetlands, which could be affected by the proposed action and alternatives, and include maps that clearly identify all waters within the planning area, data on acreages and channel lengths, habitat types, values, and functions of these waters.

If wetlands are present and would be affected by the project, the document should discuss how the projects would comply with Section 404 of the Clean Water Act requirements. It should also evaluate potential impacts to adjacent wetlands or indirect impacts to wetlands, such as hydrologic changes due to increases in impervious surfaces. Project discharges can result from a variety of activities, including road and facility construction. The EIS should disclose where there are known waters or wetlands, which would be directly or indirectly affected by the proposed EIS activities.

Activities affecting floodplains are also regulated under Section 404 of the Clean Water Act and Executive Orders 11988: *Floodplain Management* and 13690: *Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input*. Floodplains perform a vital function of conveying and dissipating the volume and energy of peak surface runoff flows downstream. Periodic flood flows form and sustain specific habitat types, such as wetland and riparian areas. The EIS, therefore, should include information on any activities that could occur in floodplains, what alternatives were considered, and steps to be taken to reduce floodplain impacts and risks. Because of their importance, unimpaired flood flows within floodplains should be preserved and flood-related damage to downstream resources should be prevented.

Noxious Weeds and Rare Plants

Following vegetation removal, invasive species can also aggressively spread into newly cleared or filled areas. The status of noxious weed projects within the planning area should be described and weed monitoring and control features identified. The EIS should contain measures that are consistent with Executive Order 13112, *Invasive Species*. We suggest including a description of current conditions and best management practices which will be utilized to reduce the likelihood of introduction and spread of invasive species with the proposed management activities.

Impacts to endangered species

The proposed plan and subsequent activities may impact endangered, threatened or candidate species listed under the Endangered Species Act, their habitats, as well as State sensitive species. The EIS should identify the endangered, threatened, and candidate species under ESA, and other sensitive species within the project area. In addition, the document should describe the critical habitat for these species; identify any impacts the plan will have on these species and their critical habitat; and how it will meet all requirements under ESA, including consultation with the U.S. Fish and Wildlife Service.

Climate Change

We believe the Council on Environmental Quality's December 2014 revised draft guidance for Federal agencies' consideration of GHG emissions and climate change impacts in NEPA outlines a reasonable approach, and we recommend that agencies use that draft guidance to help outline the framework for its analysis of these issues. Accordingly, we recommend the draft EIS include an estimate of the GHG emissions associated with the project, qualitatively describe relevant climate change impacts, and analyze reasonable alternatives and/or practicable mitigation measures to reduce project-related GHG emissions. More specifics on those elements are provided below. In addition, we recommend that the NEPA analysis address the appropriateness of considering changes to the design of the proposal to incorporate GHG reduction measures and resilience to foreseeable climate change. The draft and final EIS should make clear whether commitments have been made to ensure implementation of design or other measures to reduce GHG emissions or to adapt to climate change impacts.

More specifically, we suggest the following approach:

- Estimate the GHG emissions associated with the proposal and its alternatives. Example tools for estimating and quantifying GHG emissions can be found on CEQ's NEPA.gov website.¹ For actions which are likely to have less than 25,000 metric tons of CO₂-e emissions/year, provide a qualitative estimate unless quantification is easily accomplished.
- The estimated GHG emissions can serve as a reasonable proxy for climate change impacts when comparing the proposal and alternatives. In disclosing the potential impacts of the proposal and reasonable alternatives, consideration should be given to whether and to what extent the impacts may be exacerbated by expected climate change in the action area, as discussed in the "affected environment" section.
- Recognizing that climate impacts are not attributable to any single action, but are exacerbated by a series of smaller decisions, we do not recommend comparing GHG emissions from a proposed action to global emissions. As noted by the CEQ revised draft guidance, "[t]his approach does not reveal anything beyond the nature of the climate change challenge itself: [t]he fact that diverse individual sources of emissions each make relatively small additions to global atmospheric GHG concentrations that collectively have huge impact." We also recommend that you do not compare GHG emissions to total U.S. emissions, as this approach does not provide meaningful information for a project level analysis. Consider providing a frame of reference,

¹ https://ceq.doe.gov/current_developments/GHG_accounting_methods_7Jan2015.html

such as an applicable Federal, state, tribal or local goal for GHG emission reductions, and discuss whether the emissions levels are consistent with such goals.

- Describe measures to reduce GHG emissions associated with the project, including reasonable alternatives or other practicable mitigation opportunities and disclose the estimated GHG reductions associated with such measures. The DEIS alternatives analysis should, as appropriate, consider practicable changes to the proposal to make it more resilient to anticipated climate change. EPA further recommends that the Record of Decision commits to implementation of reasonable mitigation measures that would reduce or eliminate project-related GHG emissions.

Cumulative Impacts

The NEPA document should assess impacts over the entire area of impact, including the effects of other past, present and future actions both in and outside the project area together with the proposed action. The NEPA document should describe where and how much grazing has occurred in the project area, and where and the extent to which it is occurring now. For each resource analyzed, the document should identify:

- Current condition of the resource as a measure of past impacts.
- Trend in the condition of the resource as a measure of present impacts.
- Future condition of the resource based on an analysis of the cumulative impacts of reasonably foreseeable projects or actions added to existing conditions and current trends
- Cumulative impacts' contribution of the proposed alternatives to the long-term health of the resource, and provide a specific measure for the projected impact from the proposed alternatives
- Parties that would be responsible for avoiding, minimizing, and mitigating adverse impacts
- Opportunities to reduce impacts, including working with other entities.

Coordination with Agencies

The EIS is being developed jointly between the CBP and the IPNF. The EIS should discuss the roles and responsibilities of each agency with respect to the project as well as how the proposed action would support or conflict with the objectives of Federal, state, tribal or local land use plans, policies and controls in the analysis area and vicinity.

Coordination with Tribal Governments

Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments* (November 6, 2000), was issued in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies which have tribal implications, and to strengthen the United States government-to-government relationships with Indian tribes. The EIS should describe the process and outcome of government-to-government consultation between the agencies and each of the tribal governments within the analysis area and vicinity, issues which were raised (if any), and how those issues were addressed in the selection of alternatives.

Monitoring

Since the project has the potential to affect a variety of resources, we recommend that the proposed action include an environmental inspection and mitigation-monitoring program to ensure compliance with all mitigation measures and assess their effectiveness. The EIS document should describe the monitoring program and its use as an effective feedback mechanism so that any needed adjustment can be made to m